

DOCKET NO.: FBT-CV-17-5032827-S : SUPERIOR COURT
TOWN OF FAIRFIELD : JUDICIAL DISTRICT OF
FAIRFIELD
v. : AT BRIDGEPORT
JULIAN DEVELOPMENT, LLC
AND JULIAN ENTERPRISES, INC. : JANUARY 28, 2019

**PLAINTIFF'S MOTION TO OPEN WITHDRAWAL
AND RESTORE CASE TO JUDICIAL DOCKET**

Plaintiff Town of Fairfield hereby moves to open its withdrawal and restore the above-captioned action to the judicial docket. In or about November 15, 2018, the parties agreed to arbitrate this matter and enter into an Arbitration Agreement [Entry No. 132.00], attached hereto as Exhibit A, which was approved and so ordered by this Court [132.10]. Based on that order and Defendants' commitment to submit the dispute to binding arbitration, Plaintiff filed a withdrawal of action [Entry No. 133.01]. The Arbitration Agreement provided certain requirements and specific deadlines – including discovery and hearing-related deadlines. Defendants have entirely disregarded each requirement and deadline and have refused to proceed with a hearing on the merits in accordance with the Arbitration Agreement.

From the inception, Defendants have either rejected or shown complete indifference to the arbitration process. Defendants failed to sign the requisite contract with the arbitrator or submit the requisite deposit. Further, the Arbitration Agreement included a limited timeframe for discovery, with discovery responses due by December 4, 2018; yet notwithstanding *repeated* assurances over the last many weeks that responses were immediately forthcoming, Defendants never produced *any* responses or responsive documents. Additionally, the Arbitration Agreement provided for the hearing to commence no later than 90 days after the date of the Arbitration

Agreement, *i.e.*, no later than February 15, 2019; the hearing was originally scheduled for February 13-15. Defendants then requested a one-month continuance; to accommodate Defendants' counsel, Plaintiff consented to the continuance request and the parties selected March 2019 hearing dates. And then, approximately one week ago, without consulting Plaintiff's counsel, one of Defendants' counsel advised the arbitrator that Defendants were unilaterally canceling the newly rescheduled March 2019 arbitration hearing and continuing it to late May 2019.

Given that Defendants have failed to act in accordance with the Arbitration Agreement, by failing to sign the requisite contract with the arbitrator or submit the requisite deposit, ignoring their discovery commitments, and continuing to delay the arbitration hearing, Plaintiff is moving to open its withdrawal and restore this case to the judicial docket.

WHEREFORE, Plaintiff respectfully moves to open its withdrawal of the above-captioned action and requests that this Court restore this case to the judicial docket, enter a scheduling order and set trial dates.

THE PLAINTIFF

By: 

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Exhibit A

ARBITRATION AGREEMENT

This Arbitration Agreement (the "Agreement") is made on this 15th day of November, 2018 between the Town of Fairfield and Michael Tetreau, located at 611 Old Post Road, Fairfield, CT, and Julian Development LLC and Julian Enterprises, Inc., located at 57 Brunswick Avenue, Fairfield, CT.

The parties agree as follows:

1. **Arbitration.** The parties agree to submit to binding arbitration the claims they have against each other currently pending before the Superior Court in Bridgeport, captioned *Town of Fairfield vs. Julian Development, LLC, et al.*, Docket No: CV17-5032827-S and *Julian Development, LLC vs Town of Fairfield et al.*, Docket No: CV17-6064831-S. These civil cases shall be withdrawn upon the execution of this Agreement.
2. **Arbitration Procedure.** The parties agree to enter into arbitration pursuant to the rules of the Connecticut Arbitration Act unless expressly modified by this Agreement. The parties agree that the arbitration hearing shall commence no later than 90 days from the date of this Agreement, and that a decision shall be issued within 30 days after the completion of the hearing. The parties agree upon the following pre-hearing schedule: 1) Written discovery requests shall be propounded by November 21, 2018; 2) Discovery responses, including all document productions, shall be served by December 4, 2018; 3) Experts shall be disclosed by December 18, 2018; and 4) Depositions shall be concluded by January 28, 2019. These time periods may be extended by the arbitrator in the interests of justice or the parties may agree to extend this time in writing.
3. **Arbitrator/Hearing.** The parties have agreed that Judge Elaine Gordon shall be the single arbitrator, and that the hearing shall be from February 13-15, 2019 at the offices of Cohen and Wolf, P.C. in Bridgeport.
4. **Governing Law.** The laws of the State of Connecticut will be applied in the proceedings, without regard to principles of conflict of laws.
5. **Award.** The parties agree to abide by any award issued by the arbitrator upon confirmation by the Superior Court and any damages awarded shall be paid within 30 days of confirmation. The parties agree that the decision is final and binding and reviewable under only limited circumstances by statute.
6. **Arbitration Costs.** The costs of the arbitration will be split equally by the parties, and the parties will be responsible for their own litigation fees, unless otherwise ordered by the arbitrator.

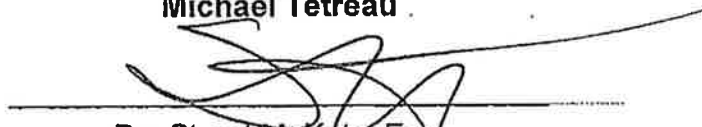
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7. **Order Pendente Lite.** The Prejudgment Remedy Orders in *Town of Fairfield vs. Julian Development, LLC, et al.*, Docket No: CV17-5032827-S, shall be converted to an Order Pendente Lite, pursuant to *Conn. Gen. Stat.* Section 52-422.

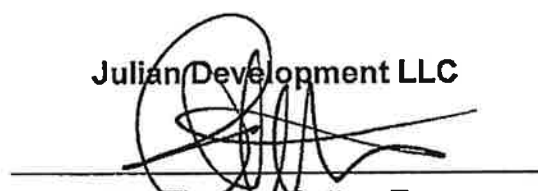
This Agreement has been executed and delivered as of the date first written above.

**Town of Fairfield and
Michael Tetreau**



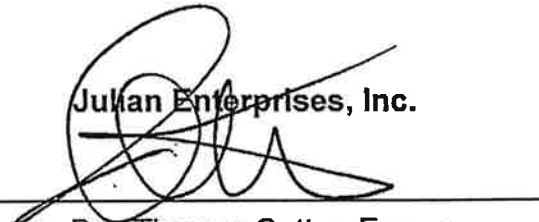
By: Stuart M. Katz, Esq.
Cohen and Wolf, P.C.
Their Counsel

Julian Development LLC



By: Thomas Cotter, Esq.
The Cotter Law Firm
Its Counsel

Julian Enterprises, Inc.



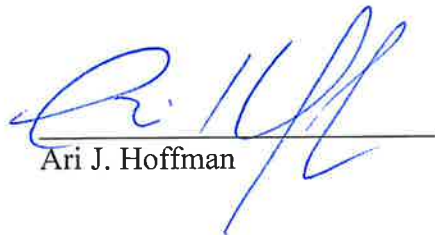
By: Thomas Cotter, Esq.
The Cotter Law Firm
Its Counsel

CERTIFICATION

I certify that a copy of the above was or will immediately be mailed or delivered electronically or non-electronically this 28th day of January, 2019 to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served, as follows:

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